

EXPEDITED FUNDS AVAILABILITY

OVERVIEW

The Expedited Funds Availability Act (EFA) and the Federal Reserve Board's implementing Regulation CC require depository institutions to make funds deposited into transaction accounts available according to specified time schedules and disclose funds availability policies to their customers. Regulation CC also establishes rules designed to expedite the collection and return of unpaid checks.

Examination Objective(s)

The objective of the examination is to:

Determine whether the financial institution's funds availability policies and practices are in compliance with Regulation CC

In This Section

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DEFINITION(S)

Account

A demand deposit or other transaction account such as a Negotiable Order of Withdrawal (NOW) account. It includes consumer and corporate accounts with general third party payment powers and includes:

Accounts at a bank from which the account holder is permitted to make transfers or withdrawals by negotiable or transferable instrument

DEFINITION(S)
(cont'd)

Payment order of withdrawals

Telephone transfers

Account (cont'd)

Electronic payments or other similar means such as the use of ATMs, remote service units or other electronic devices for the purpose of making payments or transfers to third persons

For the purpose of EFA, account **does not** include:

Savings deposits including time deposits and money market deposit accounts as defined in Section 204.2(d)(2) of the Federal Reserve Board's Regulation D

Accounts where the holder is a bank

Accounts where the holder is an office of an institution described in Section 229.2(e)(1) through 229.2(e)(6) of Regulation CC

Accounts where the holder is an office of a foreign bank as defined in Section 1(b) of the International Banking Act (12 U.S.C. 3101), located outside of the United States

Accounts where the holder is the Treasury of the United States

Banking Day

Part of any business day on which an office of a bank is open to the public for carrying on substantially all of its banking functions.

Business Day

A calendar day other than a Saturday, a Sunday or legal holiday (standard Federal Reserve holiday schedule).

*NOTE: Even though a bank may be open for regular business on a Saturday, it **is not** a banking day for the purpose of Regulation CC because Saturday is **never** a business day under the Regulation.*

DEFINITION(S)
(cont'd)

**Proprietary
ATM**

An ATM that is:

Owned or operated by, or operated exclusively for, the depository bank

Located on the premises (including the outside wall) of the depository bank, or

Located within 50 feet of the premises of the depository bank and not identified as being owned or operated by another entity

**MANAGEMENT
OR POLICY-
RELATED
PROCEDURES**

**General
Procedures**

General Procedures	
1.	Determine each type of transaction account, as defined in Regulation D Section 204.2(e) (e.g., demand deposits, NOW accounts, ATM accounts) offered by the financial institution.
2.	<p>Identify:</p> <ul style="list-style-type: none"> The types of hold policies employed How the decisions for holds are made Where the records are maintained <p><i>NOTE: If a branch makes its decision for holds and maintains its own records, such as in a decentralized structure, sampling may be done at the branch. If the decision to delay availability is either centralized or made at a regional processing center and records are maintained there, sampling for compliance may be made at that location.</i></p>
3.	<p>Obtain copies of the following forms used by the financial institution for transaction accounts, as applicable:</p> <ul style="list-style-type: none"> Specific availability policy disclosures Exception hold notices Case-by-case hold notices Special deposit slips Change in terms notice
4.	Determine, by account type, the financial institution's specific funds availability policies with regard to deposits.

**MANAGEMENT
OR POLICY-
RELATED
PROCEDURES
(cont'd)**

**General
Procedures
(cont'd)**

- | | |
|---|---|
| 5. | Review the financial institution's training manual, internal audit or similar reports pertaining to Regulation CC. |
| 6. | Review written procedures given to employees detailing their responsibilities under the Regulation, and any other similar materials. |
| 7. | <p>Determine which individuals perform the various operational activities required by the provisions of Regulation CC, Subpart B.</p> <p>This would include, for example, personnel engaged in:</p> <ul style="list-style-type: none"> Distributing disclosure statements Training employees Performing internal reviews Developing computer programs for deposit accounts (not necessarily a computer programmer) Deposit operations Administering overdrafts Processing ATM deposits Determining case-by-case holds or exceptions |
| 8. | Determine the extent and adequacy of the training provided to the staff responsible for compliance with Regulation CC. |
| Initial Disclosures and Subsequent Changes | |
| 9. | Review the financial institution's specific availability policy disclosures. (229.16) |
| 10. | Determine if the disclosures accurately reflect the financial institution's funds availability policies and meet the requirements under Section 229.16 for content. |
| 11. | Determine if the financial institution provides the initial disclosure statement prior to accepting funds to open a new transaction account, or mails the disclosures within one business day of receiving a written request by mail, or a telephone request, to open a new account. (229.17) |

**MANAGEMENT
OR POLICY-
RELATED
PROCEDURES
(cont'd)**

**General
Procedures
(cont'd)**

12. Determine if the financial institution provides its funds availability policy upon oral or written request within a reasonable time period. (229.18(d))

13. Determine if the financial institution has made changes to its availability policies since the last examination.

If yes, determine whether the depositor was notified in accordance with Section 229.18(e).

Automatic (and/or Automated) Hold Policies

14. Review the financial institution's availability schedules and other materials relating to its funds availability time periods for the following types of deposits:

Cash (229.10(a))

Electronic payments (229.10(b))

U.S. Treasury checks (229.10(c)(1)(i) and 229.12(b)(2))

U.S. Postal Service Money Orders (229.10(c)(1)(ii), 229.10(c)(2) and 229.12(b)(3))

Checks drawn on Federal Reserve Banks or Federal Home Loan Banks (229.10(c)(1)(iii), 229.10(c)(2), 229.12(b)(4) and 229.12(c)(1)(ii))

State or local government checks (229.10(c)(1)(iv), 229.10(c)(2), 229.12(b)(4) and 229.12(c)(1)(ii))

Cashier's, certified and teller's checks (229.10(c)(1)(v), 229.10(c)(2), 229.12(b)(4) and 229.12(c)(1)(ii))

"On Us" checks (229.10(c)(1)(vi))

Local checks (229.12(b)(1))

Nonlocal checks (229.12(c)(1)(i))

Credit union share draft accounts (*Refer to Appendix E of Regulation CC for Commentary to 229.16(b)*)

**MANAGEMENT
OR POLICY-
RELATED
PROCEDURES
(cont'd)**

**General
Procedures
(cont'd)**

15. Determine that the financial institution's policy for providing funds availability is in accordance with regulatory requirements.

(229.10, 229.12, and 229.13)

16. Determine the financial institution's procedures for placing holds.

Availability Rules – \$100 and \$400

17. Determine the financial institution's procedures for complying with the \$100 availability rule and, if applicable, the \$400 cash withdrawal rule. (229.10(c)(1)(vii) and 229.12(d))

Refer to Appendix E of Regulation CC for Commentary for the above cited sections. Detailed explanations along with specific examples are used to illustrate these availability rules.

Extended Holds

Extended Holds

1. Review policies and procedures for extended holds.

Case-by-Case Holds

2. Determine if the financial institution places holds on a case-by-case basis.

If yes, review the financial institution's procedures for placing case-by-case holds. (229.16(c))

3. Review the specific availability policy disclosures to determine whether the case-by-case hold policy has been disclosed. (229.16(c))

Exception Holds

4. Determine whether the financial institution places holds on an exception basis.

If yes, review procedures for placing exception holds. (229.13)

**MANAGEMENT
OR POLICY-
RELATED
PROCEDURES
(cont'd)**

**Extended Holds
(cont'd)**

5.	Review the specific availability policy disclosures to determine whether the financial institution has disclosed its exception holds policy. (229.13)
New Accounts	
6.	Review the financial institution's policies for new accounts. (229.13(a))
7.	Determine how the financial institution defines a "new account" relationship.
8.	Determine if the financial institution's definition is in compliance with Regulation CC. (229.13(a))
9.	Review the specific availability policy disclosure to determine whether the institution has disclosed its availability policy regarding new accounts. (229.13(a))
Large Deposits	
10.	Determine whether the financial institution has procedures and a special hold policy for "large deposits". If yes, determine whether the financial institution considers a large deposit, for purposes of the large deposit exception, to be a day's aggregate deposit of checks exceeding \$5,000. (229.13(b))
Redeposited Checks	
11.	Determine if the financial institution has procedures and a special hold policy for redeposited checks. (229.13(c))
Repeated Overdrafts	
12.	<p>Determine whether the financial institution has procedures or a special hold policy for customers with repeated overdrafts.</p> <p>If yes, review the financial institution's definition for accounts "repeatedly overdrawn" and determine whether it meets the regulatory definition in Section 229.13(d). (229.13(d))</p>

**MANAGEMENT
OR POLICY-
RELATED
PROCEDURES
(cont'd)**

**Extended Holds
(cont'd)**

Reasonable Cause to Doubt Collectibility

13. Determine if the financial institution has procedures or a special policy for placing "reasonable cause" holds.

If yes, determine who initiates "reasonable cause" holds. (229.13(e))

Emergency Conditions

14. Determine if the financial institution has procedures or a special policy for placing "emergency condition" holds.

If yes, review the institution's procedures for placing these holds.
(229.13(f))

**Miscellaneous
Provisions**

Special Deposit Slips

1. Determine if the financial institution requires a special deposit slip for state or local government checks, cashier's, certified, or teller's checks in order to provide next business day availability on the deposits.
(229.10(c)(3)(i))

2. If the financial institution requires a special deposit slip, determine that the financial institution does one of the following:

Provides the deposit slip to its customers

Informs the customers how to obtain and prepare the slips

Makes the special deposit slips "reasonably available"

(229.10(c)(3)(ii))

**OPERATIONS/
TRANSACTION-
BASED
PROCEDURES**

**General
Procedures**

General Procedures	
1.	Verify that the financial institution provides employees with a written statement regarding its procedures which pertain to that employee's function. (229.19(f))
Automatic (and/or Automated) Hold Policies	
2.	Selectively sample each of the types of deposits listed under Section 229.10 and verify the funds availability time frames.
3.	Determine, for each deposit category, whether the financial institution's procedures provide funds availability within the required time periods.
4.	Determine that the procedures and disclosed policy are the same.
ATM Deposits – Nonproprietary	
5.	Determine that the institution makes funds deposited in an account at a nonproprietary ATM by cash or check available for withdrawal not later than the fifth business day following the day of deposit. <i>Refer to the following for further guidance: Sections 229.12(f), 229.19(a)(4), and 229.19(a)(5)(ii), as well as Appendix E of Regulation CC for Commentary to 229.19(a) and 229.19(b) for off-premise ATMs.</i>
Availability Rules – \$100 and \$400	
6.	Review records which detail holds placed on accounts.
7.	Determine if holds are in accordance with the regulation. (229.10(c)(1)(vii) and 229.12(d))
8.	Sample deposit accounts with deposits subject to these rules and verify the institution's compliance with the rules.
9.	Verify that actual practices match the policies. (229.10(c)(1)(vii) and 229.12(d))

**OPERATIONS/
TRANSACTION-BASED
PROCEDURES
(cont'd)**

Extended Holds

Extended Holds	
1.	Review policies and procedures for extended holds.
Case-by-Case Holds	
2.	Review any physical records and/or reports generated from holds placed. (The sample should include records from the main office and branch offices, depending on type of branch system operated.)
3.	Sample a few of the case-by-case holds and determine whether the financial institution makes the funds available for withdrawal within the required time frames. (229.12) <i>Refer to Appendix E of Regulation CC for Commentary for 229.16(c)</i>
4.	Determine whether the financial institution provides the customer with a notice of the case-by-case hold as required by Section 229.16(c)(2).
5.	Determine if the notices meet both the timing and content requirements.
6.	If the institution does not provide the notice at the time of deposit, determine whether it either discloses the availability of refunds of overdraft and returned check fees, or does not assess these fees, when the requirements of Section 229.16(c)(3) are met.
Exception Holds	
7.	Review any physical records and/or reports generated from holds placed. (The sample should include records from the main office and branch offices, depending on type of branch system operated.) (229.13)
8.	Sample a few of the exception holds and determine when the financial institution makes the funds available for withdrawal. (229.13)

**OPERATIONS/
TRANSACTION-BASED
PROCEDURES
(cont'd)**

**Extended Holds
(cont'd)**

9. Determine that the financial institution does not add more than one business day for "on-us" checks, five business days for local checks, and six business days for nonlocal checks to the maximum time periods in the federal availability schedule for the deposit, unless it can show that a longer delay is reasonable. (229.13(h))

10. With the exception of new accounts, determine whether the financial institution provides the customer with an exception hold notice as required by Section 229.13(g).

11. Review hold notices. Determine if the notices meet the timing and content requirements for each type of exception hold. (229.13(g))

NOTE: Institutions are required to retain copies of "reasonable cause" hold notices.

New Accounts

12. Review a report or listing of new accounts. Determine if any holds were placed on the accounts. (229.13(a))

13. Sample deposit accounts and request the financial institution to provide documentation concerning the composition of the opening deposit or most recent deposit. (229.13(a))

14. Review holds placed and determine if holds are within regulatory limits with respect to time and amount.

Refer to Section 229.13(a)(1)

NOTE: No regulatory time limits are set forth for funds availability for local and nonlocal check deposits into new accounts.

Large Deposits

15. Determine whether the financial institution invokes the large deposit exception for cash or electronic payments. (229.13(b))

16. Review at least one deposit account on which a large deposit hold was placed to ensure that the hold was placed only on that amount by which a day's deposits of checks exceeds \$5,000. (229.13(b))

**OPERATIONS/
TRANSACTION-BASED
PROCEDURES
(cont'd)**

**Extended Holds
(cont'd)**

17. Determine if the financial institution provided the customer with a written exception notice which meets the requirements of Section 229.13(g)(1) or 229.13(g)(2).
18. Determine if the notice was provided within the prescribed time frames of Section 229.13(g)(1) or 229.13(g)(2).
Redeposited Checks
19. Determine if the institution refrains from imposing this exception solely because of a missing endorsement or because the check was post dated. (229.13(c))
20. Determine if the financial institution provided the customer with a written exception notice which meets the requirements of Section 229.13(g)(1) or 229.13(g)(2).
21. Determine if the notice was provided within the prescribed time frames of Section 229.13(g)(1) or 229.13(g)(2).
Repeated Overdrafts
22. Determine that the financial institution returns the account to the financial institution's normal account status when the account has not been repeatedly overdrawn for a six month period following the time the account was characterized as repeatedly overdrawn. (229.13(d))
23. Review the financial institution's overdraft report. (229.13(d)) <i>NOTE: This may or may not be the same overdraft report maintained in the ordinary course of business. The financial institution may maintain a list of recent overdrafts, as well as a list of customers repeatedly overdrawn.</i>
24. Review accounts classified as being repeatedly overdrawn to determine if the financial institution properly classified the account and followed the regulatory procedures outlined in Section 229.13(d).

**OPERATIONS/
TRANSACTION-BASED
PROCEDURES
(cont'd)**

25. Determine the date the account was placed in "repeated overdraft" exception status, then review account statements six months prior to the date the account was classified as an overdraft exception.
(229.13(d))

**Extended Holds
(cont'd)**

**OPERATIONS/
TRANSACTION-BASED
PROCEDURES
(cont'd)**

**Extended Holds
(cont'd)**

26. Determine whether the financial institution provided the customer with the appropriate notice when an exception hold was placed on the account. If so, review the content of the notice and determine if it meets the requirements of Section 229.13(g)(1) or 229.13(g)(3).
27. Determine if the exception notice was given within the required time frames. (229.13(g)(1) or 229.13(g)(3))
Reasonable Cause to Doubt Collectibility
28. Obtain a listing of accounts or checks where the institution placed a hold on an account or deposit citing reasonable cause to doubt collectibility. (229.13(e))
29. Determine if the reason for invoking the exception was "reasonable". (229.13(e))
30. Review the exception notice given to the customer for the content of the notice and determine if it meets the requirements of Section 229.13(g)(1).
31. Determine if the notice was given within the required time frames. (229.13(g)(1))
32. If the institution imposes a "reasonable cause" exception hold and does not provide the notice at the time of deposit, determine whether it either discloses the availability of refunds of overdraft and returned check fees, or does not assess these fees, when the requirements of Section 229.13(e)(2) are met.
Emergency Conditions
33. Determine whether the institution invokes this exception only under the conditions specified in Section 229.13(f).

34. Determine whether the institution makes the funds available for withdrawal within a reasonable time period from either the termination of the emergency or the period in which the deposit would normally be available for withdrawal, whichever is later. (229.13(h)(3) and 229.13(h)(4))

NOTE: Reasonable periods are one business day for "On Us" checks, five business days for local checks, and six business days for nonlocal checks.

**Miscellaneous
Provisions**

Additional Disclosure Requirements

1. Determine if the financial institution conspicuously displays a notice of its availability policy at locations where employees receive consumer deposits. (229.18(b))

*NOTE: Drive-up windows and night depositories **do not** require the notice. Refer to Appendix E of Regulation CC for Commentary to Section 229.18(b).*

2. Determine if the financial institution displays a notice at each of its proprietary ATMs stating that the funds deposited in the ATM may not be available for immediate withdrawal. (229.18(c)(1))

3. If the financial institution has off-premise ATMs from which funds are not collected more than twice a week, determine if the institution discloses on or at the ATM, the days upon which the deposits made at the ATM will be considered "received". (229.18(c)(2))

4. Determine if the institution includes a notice on all preprinted deposit slips that the deposited funds may not be available for immediate withdrawal. (229.18(a))

Payment of Interest

5. Determine whether the financial institution pays interest as of the date of the deposit, or as of the date provisional credit is granted. (229.14)

**OPERATIONS/
TRANSACTION-BASED
PROCEDURES
(cont'd)**

**Miscellaneous
Provisions
(cont'd)**

6. If the financial institution pays interest as of the date provisional credit is granted, review the institution's schedule for provisional credit. This schedule may be from a Federal Reserve Bank or may be based on the time credit is generally received from a correspondent bank. (229.14)

Select a NOW account statement and ask the financial institution to detail the interest rate calculation

7. Review the financial institution's method for calculating interest on deposits reviewed. (229.14)

Select another NOW account and, using the financial institution's procedures for calculating interest, verify that the financial institution accrues interest as of the date provisional credit is granted

Calculated Availability – Nonconsumer Transaction Accounts

8. Determine if the financial institution uses a formula for calculating funds availability for nonconsumer transaction accounts. (229.19(d))

9. Review a copy of the financial institution's formula.

10. Select a large corporate account subject to the formula. Ask the financial institution to demonstrate how funds are made available to the customer.

11. Determine whether it appears that the formula accurately reflects the type of deposit mix reasonably expected for this type of account holder.

For example, a local grocery store may have 90% of its deposits made up of local check deposits. Therefore, a formula providing a deposit mix of at least 90% availability within two days may be reasonable. A mail order firm, on the other hand, may have a large percent of nonlocal checks in its check deposits. Therefore, its formula may allow for lengthier availability schedules.

Record Retention

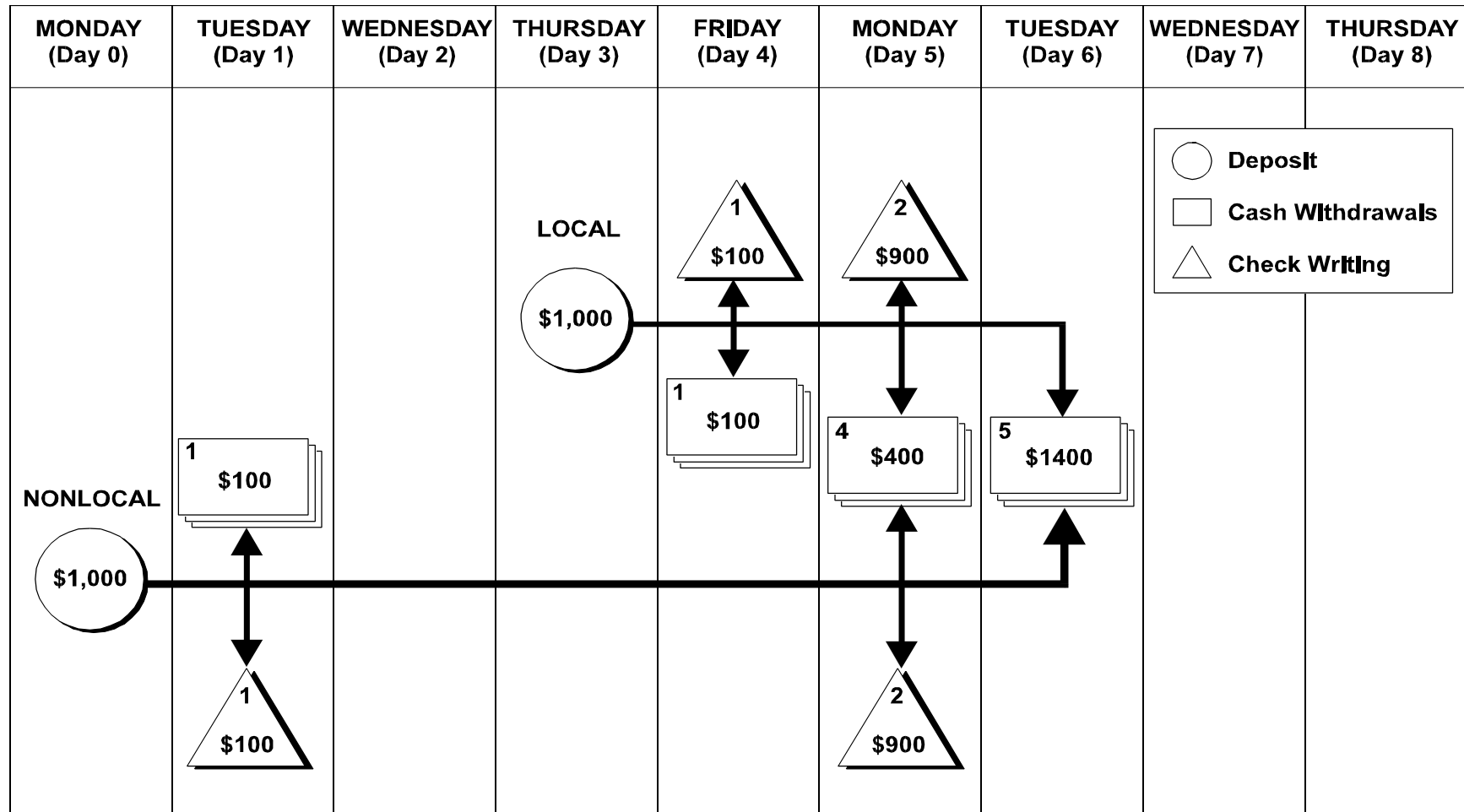
12. Determine that the financial institution retains for two years, the notices required when a "reasonable cause" exception is invoked. (229.21(g) and 229.13(g)(4))

**WORKPAPER
STANDARDS**

Standardized workpapers must be completed when reviewing compliance with the EFA. Refer to the Standardized Workpapers Appendix in this manual.

Permanent Funds Availability Schedules – A

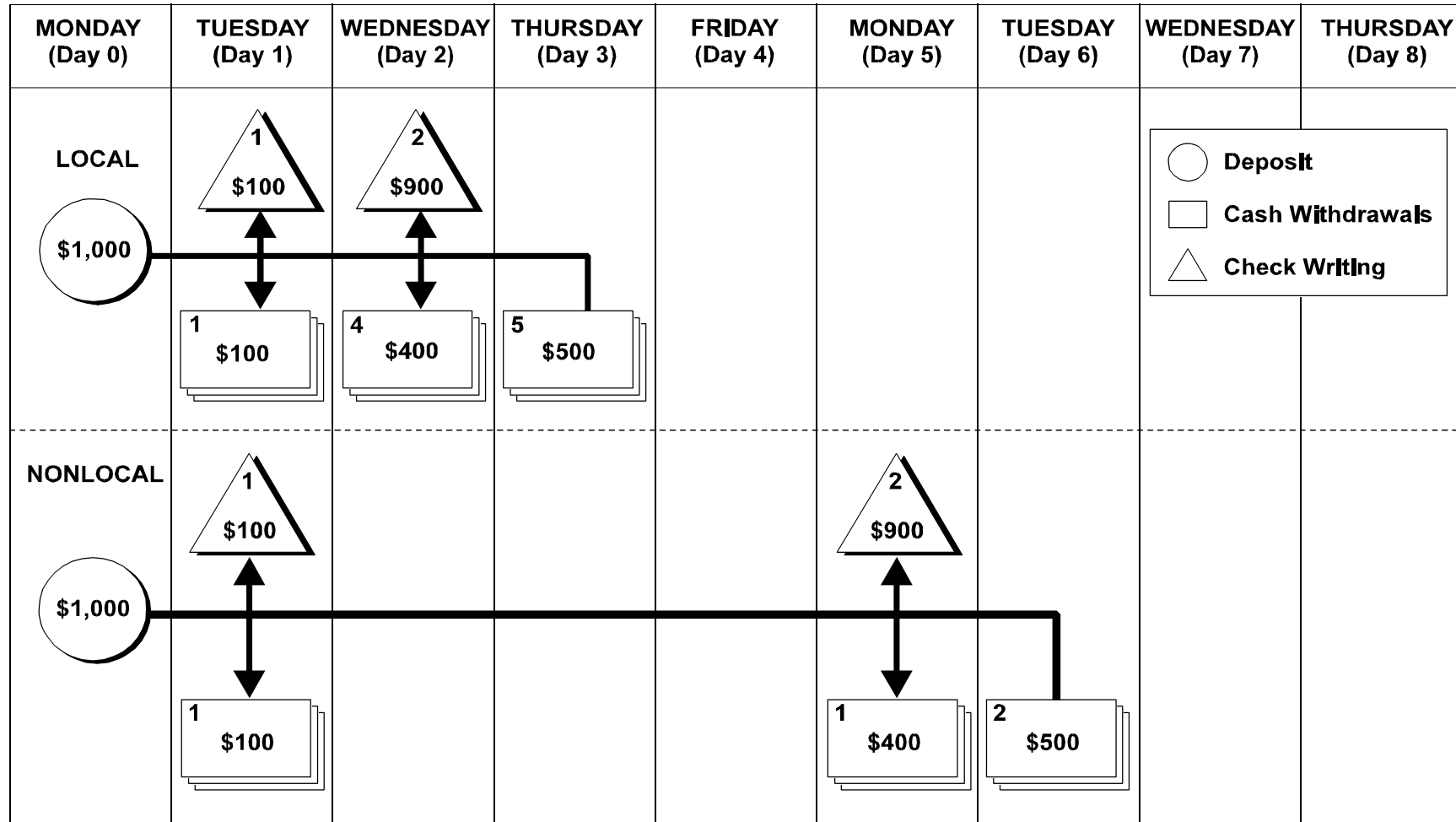
Illustrates availability of different types of checks deposited the same day, under the permanent schedules.



1. The first \$100 of a day's deposit must be made available for either cash withdrawal or check writing purposes at the start of the next business day. Section 229.10(c)(1)(vii)
2. Local checks must be made available for check writing purposes by the second business day following deposit. Section 229.12(b)
3. Nonlocal checks must be made available for check writing purposes by the fifth business day following deposit. Section 229.12(c)
4. \$400 of the deposit must be made available for cash withdrawal no later than 5:00 p.m. on the day specified in the schedule. This is in addition to the \$100 that must be made available on the business day following deposit. Section 229.12(d)
5. The remainder of the deposit must be made available for cash withdrawal at the start of business the following day. Section 229.12(d)

Permanent Funds Availability Schedules – B

Illustrates availability of different types of checks deposited on separate days, under the permanent schedule.



1. The first \$100 of a day's deposit must be made available for either cash withdrawal or check writing purposes at the start of the next business day. Section 229.10(c)(1)(vii)
2. Local checks must be made available for check writing purposes by the second business day following deposit. Section 229.12(b)

4. \$400 of the deposit must be made available for cash withdrawal no later than 5:00 p.m. on the day specified in the schedule. This is in addition to the \$100 that must be made available on the business day following deposit. Section 229.12(d)
5. The remainder of the deposit must be made available for cash withdrawal at the start of business the following day. Section 229.12(d)

1. The first \$100 of a day's deposit must be made available for either cash withdrawal or check writing purposes at the start of the next business day. Section 229.10(c)(1)(vii)
3. Nonlocal checks must be made available for check writing purposes by the fifth business day following deposit. Section 229.12(c)
4. \$400 of the deposit must be made available for cash withdrawal or check writing purposes at 2 p.m. on the day specified in the schedule. This is to be made available on the business day following the day specified in the schedule.



**FDIC LAW,
REGULATIONS
, & RELATED
ACTS**

Applicable Rules

Federal Reserve Board's Regulation D, Volume 2, Page 7571

Federal Reserve Board's Regulation CC (Part 229), Volume 2, Page 7889

Appendix E to Part 229 Commentary, Volume 2, Page 7945

Expedited Funds Availability Act, Volume 3, Page 8218

International Banking Act of 1978, 12 U.S.C. 3101, Volume 3, Page 8785

**Advisory
Opinions**

None

**Statements of
Policy**

Joint Policy Statement on Delayed Availability of Funds, Volume 2, Page 5241

**DCA
MEMORANDA**

Examination Procedures for Advertisements and Public Notices, Transmittal #DCA-96-022, dated 2/22/96

General Workpaper Standards and Standardized Workpapers, Transmittal #DCA-96-003, dated 1/19/96

Pre-Examination Planning (PEP) Procedures, Transmittal No. DCA-96-013, dated 1/31/96

Revised Examination Procedures for the Expedited Funds Availability Act,
Transmittal #DCA-95-009, dated 4/26/95

**FINANCIAL
INSTITUTION
LETTERS (FIL)**

Guide to Compliance with Regulation CC, Letter #31-93, dated 4/30/93
